

§ 40.47

were authorized. Authority for any variations may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where a manufacturer desires to employ such variation, he shall submit a written application to do so, in triplicate, to the regional director (compliance) for transmittal to the Director. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved. The manufacturer shall retain, as part of his records, any authorization of the Director under this section.

§ 40.47 Other businesses within factory.

The Director may authorize such other businesses within the factory as he finds will not jeopardize the revenue, will not hinder the effective administration of this part, and will not be contrary to law. Where a manufacturer desires to engage in another business within the factory he shall submit a written application to do so, in triplicate, to the regional director (compliance) for the region in which the factory is located, for his transmittal to the Director. A manufacturer shall not engage in such other business until the application is approved by the Director. The manufacturer shall retain, as part of his records, any authorization of the Director under this section.

[T.D. 6840, 30 FR 9310, July 27, 1965. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 40.48 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

§ 40.49 Delegations of the Director.

The Director has general authority to take action on all matters under the regulations in this part 40. Some of the authorities in this part are redelegated to "appropriate ATF officers". The title of the appropriate ATF officer for each delegation is listed by section in

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ATF Order 1130.30, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 40—Manufacture of Tobacco Products and Cigarette Papers and Tubes. ATF delegation orders, such as ATF Order 1130.15, are available from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150-5190, or from the ATF web site (<http://www.atf.treas.gov>).

[T.D. ATF-420, 64 FR 71940, Dec. 22, 1999, as amended by T.D. ATF-457, 66 FR 32220, June 14, 2001; T.D. ATF-460, 66 FR 39094, July 27, 2001]

Subpart E—Qualification Requirements for Manufacturers

§ 40.61 Qualification—General.

(a) *Who must qualify.* Every person who produces tobacco products except for his or her own personal consumption or use, shall qualify as a manufacturer of tobacco products in accordance with the provisions of this part.

(b) *Minimum manufacturing and activity requirements.* A permit to manufacture tobacco products will only be granted to those persons whose principal business activity under such permit will be the original manufacture of tobacco products. A permit will not be granted to any person whose principal activity under such permit will be to receive or transfer tobacco products in bond. As a minimum activity requirement, in order to qualify for a permit, the quantity of tobacco products manufactured under the permit must exceed the quantity to be transferred or received in bond under the permit. For the purposes of this section, repackaging or relabeling activities alone do not qualify as a manufacturing activity.

[T.D. ATF-421, 64 FR 71923, Dec. 22, 1999]

§ 40.61a Transitional rule.

Any person who:

(a) On August 5, 1997, was engaged in business as a manufacturer of roll-your-own tobacco, and

(b) Before January 1, 2000, submits an application, as provided in this part, to engage in such business, may, continue to engage in such business pending final action on such application. Pending such final action, all provisions of